

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
HEALTH & HUMAN SERVICES
COMMITTEE

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DATE: May 11, 2021

SUBJECT: Strike everything amendment to H.B. 2035, relating to parental rights; sex education instruction

Purpose

Restricts sex education instruction for pupils in kindergarten through grade 4. Modifies requirements relating to sex education instruction, including curricula approval and parental permission and notification procedures.

Background

A school district is prohibited from providing sex education instruction to a pupil without written permission from their parent. Additionally, a school district governing board (governing board) must create procedures which allow parents to learn about their right to opt their children in to a sex education curriculum, if one is provided by the district ([A.R.S. § 15-102](#)).

In courses other than formal sex education curricula, a governing board must adopt procedures to notify parents in advance and provide them the opportunity to withdraw their children from any instruction or presentations regarding sexuality ([A.R.S. § 15-102](#)). A school district that offers sex education curricula must include instruction on laws relating to sexual conduct with a minor for pupils in grades 7 through 12 ([A.R.S. § 15-711](#)).

On April 20, 2021, the Governor issued an [Executive Order](#) related to sex education, which among other matters, requires a public review process to select sex education curricula, directs schools to make any approved sex education curricula available online and in-person and allows parents to review the materials before opting their child in to sex education courses.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Instruction and Curricula Requirements

1. Prohibits school districts and charter schools from providing sex education instruction to pupils before grade 5.
2. Allows a school district to adopt an existing sex education course of study.
3. Allows a charter school to develop its own sex education course of study or adopt an existing sex education course of study.
4. Requires a charter school with existing sex education curricula to include instruction on the laws relating to sexual conduct with a minor, for pupils in grades 7 through 12.
5. Specifies that age and grade appropriate classroom instruction on child assault awareness and abuse prevention is not prohibited.

Curricula Approval

6. Requires a governing board or charter school governing body (governing body) to review and approve a sex education course of study that is developed, adopted, revised or updated.
7. Prohibits a governing board or governing body from approving a course of study unless it complies with outlined requirements.
8. Directs a governing board or governing body, prior to approving any sex education course of study, to:
 - a) ensure that all meetings with the purpose of reviewing and selecting a course of study are publicly noticed at least two weeks before occurring and are open to the public;
 - b) make any proposed course of study available and accessible for public review and comment for at least 60 days before considering approval;
 - c) conduct at least two public hearings during the 60-day review period; and
 - d) provide parents with a meaningful opportunity to participate, review and provide input before the course of study is adopted.
9. Specifies that public comment includes written and oral comments and comments submitted through email.

Parental Permission and Notification

10. Directs a public educational institution to:
 - a) obtain signed, written consent from a pupil's parent or guardian before providing sex education instruction; and
 - b) at the same time, inform a pupil's parent or guardian of their right to review the instructional materials and activities.
11. Requires a school district or charter school, before a parent provides written permission, to:
 - a) make the sex education curricula available for the parent's review online and in-person; and
 - b) notify parents where the sex education curricula are available for review, at least two weeks before any instruction is offered.
12. Requires a governing board to develop and adopt advance parental notification procedures and provide parents the opportunity to opt their children in to any instruction, learning materials or presentations related to sexuality, in courses other than formal sex education curricula.
13. Requires sex education instruction that occurs after school hours to comply with all parental permission and curricula review requirements.
14. Specifies that a school district or charter school is not required to provide sex education instruction to pupils.

Miscellaneous

15. Directs each school district and charter school offering existing sex education instruction to review its course of study and comply with outlined requirements by December 15, 2021.

16. Repeals the requirement that each school district and charter school review its existing sex education course of study on January 1, 2022.
17. Makes technical and conforming changes.
18. Becomes effective on the general effective date.